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21888 7590 08/24/2009

THOMPSON COBURN LLP  
ONE US BANK PLAZA  
SUITE 3500  
ST LOUIS, MO 63101

EXAMINER

PORTER, RACHEL L.

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 08/24/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,227	11/10/2000	Ewing B. Gourley	16790-6411	4736

TITLE OF INVENTION: METHOD AND APPARATUS FOR PROCESSING PHARMACEUTICAL ORDERS TO DETERMINE WHETHER A BUYER OF PHARMACEUTICALS QUALIFIES FOR AN "OWN USE" DISCOUNT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	11/24/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

**PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail Stop ISSUE FEE**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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21888            7590            08/24/2009

**THOMPSON COBURN LLP**  
**ONE US BANK PLAZA**  
**SUITE 3500**  
**ST LOUIS, MO 63101**

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,227	11/10/2000	Ewing B. Gourley	16790-6411	4736

**TITLE OF INVENTION: METHOD AND APPARATUS FOR PROCESSING PHARMACEUTICAL ORDERS TO DETERMINE WHETHER A BUYER OF PHARMACEUTICALS QUALIFIES FOR AN "OWN USE" DISCOUNT**

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	11/24/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
PORTER, RACHEL L	3626	705-002000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).	2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
<input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.	1_____
<input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. <b>Use of a Customer Number is required.</b>	2_____ 3_____

## 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE \_\_\_\_\_ (B) RESIDENCE: (CITY AND STATE OR COUNTRY) \_\_\_\_\_

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:	4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
<input type="checkbox"/> Issue Fee	<input type="checkbox"/> A check is enclosed.
<input type="checkbox"/> Publication Fee (No small entity discount permitted)	<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.
<input type="checkbox"/> Advance Order - # of Copies _____	<input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)	<input type="checkbox"/> a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.	<input type="checkbox"/> b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
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Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or the amount of time you require to complete this form or your suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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21888	7590	08/24/2009		EXAMINER
THOMPSON COBURN LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101				PORTER, RACHEL L
			ART UNIT	PAPER NUMBER
			3626	
				DATE MAILED: 08/24/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1081 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1081 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b> 09/710,227	<b>Applicant(s)</b> GOURLEY, EWING B.
	<b>Examiner</b> RACHEL L. PORTER	<b>Art Unit</b> 3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 4/28/09.

2.  The allowed claim(s) is/are 81-138.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

J/C. Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Benjamin Volk, Reg. No. 48,017 on Aug. 12, 2009.

The application has been amended as follows:

[claim 81] A method for auditing a pharmaceutical purchase request, the method comprising:

- receiving order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy and (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
- receiving report data, said report data comprising (1) data representative of said second entity, and (2) data representative of a second quantity of pharmaceuticals needed for use by said second entity;
- processing said order data against said report data,
  - wherein the processing step comprises (1) determining that said second entity is an entity whose purchase of pharmaceuticals for its own use is

- eligible for an "own use" discount, (2) determining that said first quantity matches said second quantity within a pre-determined tolerance, and (3) certifying said purchase request as eligible for an "own use" discount in response to said determinations and
- wherein the method steps are performed by a processor in response to executing a software program.

[claim 100] A method for auditing a pharmaceutical purchase request, the method comprising:

- receiving order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy and (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
- receiving report data, said report data comprising (1) data representative of said second entity, and (2) data representative of a second quantity of pharmaceuticals needed for use by said second entity;
- processing said order data against said report data to determine a data value that is indicative of a difference between said first quantity and said second quantity; and
- providing said second entity data and said determined data value to a pharmaceutical supplier to permit said pharmaceutical supplier to decide whether

said second entity is an entity whose purchase of said first quantity of pharmaceuticals for its own use should receive an "own use" discount; and

- wherein the method steps are performed by a processor in response to executing a software program.

[claim 104] A method for auditing a pharmaceutical purchase request, the method comprising:

- receiving order data corresponding to a request by a first entity to purchase pharmaceuticals on behalf of a second entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy, and wherein said second entity is an entity whose purchase of pharmaceuticals for its own use is eligible for an "own use" discount;
- receiving report data, said report data comprising data that evidences a need for pharmaceuticals by said second entity; and
- processing said order data and said report data by (1) determining that said report data does not support said order data within a pre-determined tolerance, (2) downwardly adjusting said order data to a reduced quantity that is supported by said report data within said pre-determined tolerance, and (3) certifying a purchase request by said first entity for said reduced quantity of pharmaceuticals as being eligible for an "own use" discount; and wherein the method steps are performed by a processor in response to executing a software program.

Art Unit: 3626

[claim 110] An apparatus for auditing a pharmaceutical purchase request, the apparatus comprising:

- a processor and associated memory configured to:
  - receive order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy, and (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
  - receive report data, said report data comprising (1) data representative of said second entity, and (2) data representative of a second quantity of pharmaceuticals needed for use by said second entity and;
  - process said order data against said report data to (1) determine that said second entity is an entity whose purchase of pharmaceuticals for its own use is eligible for an "own use" discount, (2) determine that said first quantity matches said second quantity within a pre-determined tolerance, and (3) certify said purchase request as eligible for an "own use" discount in response to said determinations.

[claim 129] An apparatus for auditing a pharmaceutical purchase request, the apparatus comprising:

- a processor and associated memory configured to:
  - receive order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy, and (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
  - receive report data, said report data comprising (1) data representative of said second entity, and (2) data representative of a second quantity of pharmaceuticals needed for use by said second entity;
  - process said order data against said report data to determine a data value that is indicative of a difference between said first quantity and said second quantity, and
  - provide said second entity data and said determined data value to a pharmaceutical supplier to permit said pharmaceutical supplier to decide whether said second entity is an entity whose purchase of said first quantity of pharmaceuticals for its own use should receive an "own use" discount.

[claim 133] An apparatus for auditing a pharmaceutical purchase request, the apparatus comprising:

- a processor and associated memory configured to:
  - receive order data corresponding to a request by a first entity to purchase pharmaceuticals on behalf of a second entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy, and wherein said second entity is an entity whose purchase of pharmaceuticals for its own use is eligible for an "own use" discount;
  - receive report data, said report data comprising data that evidences a need for pharmaceuticals by said second entity; and
  - process said order data and said report data to (1) determine that said report data does not support said order data within a pre-determined tolerance, (2) downwardly adjust said order data to a reduced quantity that is supported by said report data within said pre-determined tolerance, and (3) certify a purchase request by said first entity for said reduced quantity of pharmaceuticals as being eligible for an "own use" discount.

***Allowable Subject Matter***

2. Claims 81-138 allowed.
3. The following is an examiner's statement of reasons for allowance:

[claims 81, 110] The closest prior art of record, Collela in view of Gardner discloses a method and system of auditing drug orders and detecting and recognizing potential

scams associated with "own use" pharmaceutical discounts. However, the prior art fails to disclose a computer implemented method and computer system which:

- receive order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy and (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
- process said order data against said report data to (1) determine that said second entity is an entity whose purchase of pharmaceuticals for its own use is eligible for an "own use" discount, (2) determine that said first quantity matches said second quantity within a pre-determined tolerance, and (3) certify said purchase request as eligible for an "own use" discount in response to said determinations.

[claims 100, 129] The closest prior art of record, Collela in view of Gardner discloses a method and system of auditing drug orders and detecting and recognizing potential scams associated with "own use" pharmaceutical discounts. However, the prior art fails to disclose a computer implemented method and computer system which:

- receiving order data corresponding to a purchase request for pharmaceuticals, said order data comprising (1) data representative of a first entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy and

- (2) data representative of a first quantity of pharmaceuticals requested for purchase by said first entity on behalf of a second entity;
- provide said second entity data and said determined data value to a pharmaceutical supplier to permit said pharmaceutical supplier to decide whether said second entity is an entity whose purchase of said first quantity of pharmaceuticals for its own use should receive an "own use" discount.

[claims 104,133] The closest prior art of record, Collela in view of Gardner discloses a method and system of auditing drug orders and detecting and recognizing potential scams associated with "own use" pharmaceutical discounts. However, the prior art fails to disclose a computer implemented method and computer system which:

- receive order data corresponding to a request by a first entity to purchase pharmaceuticals on behalf of a second entity, wherein said first entity is an entity whose purchase of pharmaceuticals for its own use is not eligible for an "own use" discount, and wherein said first entity comprises a retail pharmacy, and wherein said second entity is an entity whose purchase of pharmaceuticals for its own use is eligible for an "own use" discount;
- receive report data, said report data comprising data that evidences a need for pharmaceuticals by said second entity; and
- process said order data and said report data to (1) determine that said report data does not support said order data within a pre-determined tolerance, (2) downwardly adjust said order data to a reduced quantity that is supported by said

report data within said pre-determined tolerance, and (3) certify a purchase request by said first entity for said reduced quantity of pharmaceuticals as being eligible for an "own use" discount.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./  
Examiner, Art Unit 3626

/C. Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626